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10 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

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12 C.F.C., minor, by and through
13 CHRISTINE F., his parent and
guardian, on behalf of himself and all
14 others similarly situated,

15 Plaintiff,

16 v.

17 POWER BALANCE LLC; a Delaware
Limited Liability Company.

18 Defendants.

19
20 **NATIONWIDE CLASS ACTION**

21 CASE NO. 3:11-CV-00487-EMC

22 Hon. Edward M. Chen

23
24 **JOINT STIPULATION
REGARDING REQUEST FOR
CONTINUED STAY OF CASE
PENDING COURT
CONSIDERATION OF WHETHER
TO GRANT FINAL APPROVAL OF
THE NATIONWIDE CLASS
SETTLEMENT IN THE
BATUNG BACAL ACTION AND
[PROPOSED] ORDER**

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26 IT IS SO ORDERED AS MODIFIED

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28 Complaint filed: February 1, 2011
Trial Date: None Set

JOINT STIPULATION

Plaintiff C.F.C., minor, by and through Christine F., his parent and guardian (“Plaintiff”) and Power Balance LLC (“Defendant”) stipulate as follows:

WHEREAS, on March 25, 2011, a nationwide class settlement agreement (“class settlement”) was filed by plaintiff Andre Batungbacal in the action styled *Batungbacal v. Power Balance LLC, et al.*, SACV11-00018 CJC (MLGx), pending in the Central District of California before the Honorable Cormac C. Carney (the “*Batungbacal Action*”) (*Batungbacal* Dkt. No. 9);

WHEREAS, on April 27, 2011, the Court in the *Batungbacal* Action granted preliminary approval of the class settlement (*Id.* at No. 36);

WHEREAS, on May 27, 2011 this Court granted Defendant's unopposed motion to stay the case until after the *Batungbacal* Court issued a ruling regarding final approval of the proposed nationwide class settlement (Dkt. No. 20);

WHEREAS, on June 20, 2011, due to concerns over Power Balance's financial condition, the Court in the *Batungbacal* Action vacated its preliminary approval of the class settlement and gave the parties sixty (60) additional days to conduct discovery and determine if a new settlement could be effectuated (*Batungbacal* Dkt. No. 62);

WHEREAS, over the next several months, the parties in the *Batungbacal* Action engaged in discovery and negotiations to reach a new class settlement;

1 WHEREAS, on September 22, 2011, the parties in the *Batungbacal* Action
2 filed a new nationwide class action settlement agreement and Plaintiff filed a
3 renewed motion for preliminary approval (*Id.* at No. 69);
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5 WHEREAS the hearing on Plaintiff's motion for preliminary approval of the
6 class settlement in the *Batungbacal* Action is set for November 21, 2011;
7

8 WHEREAS, the allegations and claims made in the *Batungbacal* Action are
9 similar to certain allegations in this action and it is Defendant's position that, if
10 final approval of the nationwide class settlement in the *Batungbacal* Action is
11 granted, it will release and have preclusive effect over the putative class'
12 allegations and claims in this action;
13

14 WHEREAS, in light of the nationwide class settlement and pending motion
15 for preliminary approval in the *Batungbacal* Action, and the possible impact of
16 those proceedings on this action, the Parties hereby request that this Court continue
17 the stay of this action for a period sixty (60) days pending the outcome of the
18 preliminary approval hearing on November 21, 2011;
19

20 WHEREAS, if *Batungbacal* Court grants preliminary approval of the
21 nationwide class settlement, the Parties will thereafter file a request to renew the
22 stay of this action pending the outcome on final approval of the *Batungbacal* class
23 action settlement.
24

25 Accordingly, it is hereby stipulated and agreed that all deadlines imposed by
26
27

1 the Federal Rules of Civil Procedure or Local Rules of Civil Procedure be stayed
2 in this action for a period of sixty (60) days from the date of entry of the Order
3 granting this Joint Stipulation.

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6 Dated: October 18, 2011

DORSEY & WHITNEY LLP
By: /s/ Kate J. Santon
Steven D. Allison
Sarah K. Shaholli
Kate J. Santon
Attorneys for Defendants

11 Dated: October 18, 2011

LEXINGTON LAW GROUP
By: /s/ Mark Todzo
Mark Todzo
Attorneys for Plaintiff

15 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

16 The Case Management Conference set for 11/04/2011 is continued to 12/16/2011 at 9:00 a.m.

17 Dated: October 19, 2011

By:

